

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION**

UNITED STATES OF AMERICA

CASE NO. 6:18-CR-00027-03

VERSUS

JUDGE JAMES D. CAIN, JR.

ELVIN SHEPHERD (03)

**MAGISTRATE JUDGE CAROL B.
WHITEHURST**

MEMORANDUM ORDER

Before the court are a Motion for Compassionate Release [doc. 170] and Supplemental Motion for Compassionate Release [doc. 178] filed under the First Step Act by defendant Elvin Shepherd, who was sentenced to a 120-month statutory mandatory minimum term of imprisonment and is set for release in August 2028. *See* doc. 178, att. 1.

The government opposes the motion, pointing out that Shepherd failed to exhaust his administrative remedies. In response Shepherd submits additional exhibits pertaining to the BOP's alleged failure to correctly compute his release date. *See* doc. 178 & attachments. He also cites the ongoing lockdown status of his facility as an obstacle to completing administrative remedies. The lockdown status proved no barrier to his filing of these motions, however, and the court notes that the motions were filed well after the availability of the COVID-19 vaccine and the lifting of many associated restrictions. Relief is unavailable under the First Step Act until an inmate has first exhausted his available remedies through the BOP. *United States v. Franco*, 973 F.3d 465, 466–67 (2020).

Accordingly, the motions [docs. 170, 178] are hereby **DENIED** without prejudice to defendant's right to reassert them once he has properly exhausted his claims.

THUS DONE AND SIGNED in Chambers this 3rd day of June, 2024.

A handwritten signature in black ink, appearing to read "James D. Cain, Jr.", is written over a horizontal line.

JAMES D. CAIN, JR.
UNITED STATES DISTRICT JUDGE